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Articles

Norval Morris*

Law Schools and Other
Reformatories¹

It is, of course, a great and undeserved honor for me to be offering this year's Horace E. Read Memorial Lecture. The slightest acquaintance with Dean Read's career reveals the range and quality of his contributions to the law, to the institutions of society and to legal education. It is a great pleasure to be playing a role in these annual memorial celebrations. His life is a model of service and scholarship to all who wish to live the life of the law at its higher levels and refutes those who see our profession as narrow or intellectually confined. Nevertheless, I am unsure whether I am glad that the focus of these celebrations is on legal education, and not on either of the two other areas of Dean Read's particular professional concerns; the topic interests me deeply but it also raises my anxiety to a fearsome level. I find that I have been trying to teach in law schools for thirty years, my first position being as a temporary acting probationary assistant lecturer at the London School of Economics in 1949 (a position, you will appreciate, of awesome power), followed by teaching and sometime deaning in Melbourne and Adelaide in Australia, and Harvard, Utah, Colorado and Chicago in the United States of America. And never, never before have I risked a speech on legal education. I have been suspicious of the topic and of those who talked about it, regarding the curriculum committee of the law school as an exercise in self-aggrandizement, rather than pedagogical analysis and those who lectured publicly on legal education as likely to be compensating for their vacuities in the classroom. And now here I am among their ranks.

But surely there should be something useful for me to dredge out of this thirty years' experience. I hope so, and I shall try.

It is not quite true to say that I have never before lectured on this topic. I have, on occasion, spoken at graduation ceremonies in

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1. The fifth Horace E. Read Memorial Lecture, delivered at Dalhousie Law School on September 26, 1979 by the author.

prisons, using a title “Prisons, Law Schools and Other Reformatories,” from which, with suitable modifications for the more gentle sensibilities of the Canadian legal culture, I stole the title of this afternoon’s address to you.

Public ceremonies in prisons take place in a rather different setting from the one in which we now find ourselves — the graceful academic hall is not part of the prison architect’s armamentarium. I well recall the first time I spoke at a public occasion in a prison; it was at Stateville Prison, situated at Joliet in Illinois. It was, I immodestly confess, a huge success, attracting a standing ovation — seats were lacking and the assembly’s gratitude for my ultimate silence was unbounded. I had intended to speak to them on the text “the pen is mightier than the sword,” but was persuaded by the warden that this was in exquisitely poor taste.

Instead, I told them of the history of their prison, of its leading architectural feature of panopticons (if that is the proper plural), designed, astonishingly enough, by the father of utilitarianism, Jeremy Bentham, in England in 1794, though never built there, but reproduced in the (for him) unimaginable territory of southern Illinois in the 1920s. Each panopticon today holds over 700 prisoners in a circular cellular arrangement from which one guard in a central tower can observe all 700 — and, to his pervading discomfort, all 700 can observe him. I told them of their predecessors’ earlier hopeless *habeas corpus* action, during World War II, in which it was argued on their behalf that the tank-like appearance of Bentham’s panopticons subjected the prisoners to a disproportionate risk of having their habitat mistaken for oil storage depots and being bombed from the air.

I told them, too, of my skepticism of the prison as an engine of rehabilitation — whatever that may mean — and of some of the political problems of prison reform, a topic from which even their protracted upright posture did not distract their riveted interest.

The pretentious enormity of it all has but recently struck me, brought home as I tried to prepare myself for the Horace Read Memorial Lecture. To be preoccupied, as I am, with two aspects of changing people — prisoners and law students — as if it were properly any of my business. And what is astonishing is that my wife, my children and I have been modestly well-fed, housed and clothed by this meddlesome preoccupation. There are little enough hard data, indeed even soft data are lacking, to suggest that this preoccupation has done any good at all. My colleagues and I in the

law schools may or may not have helped any student of the law to more efficient practice of the law, to deeper insights into the law's labyrinthine mysteries — probably not. My correctional colleagues and I may or may not have helped any prisoner to a less criminous, more socially acceptable life — probably not. The former are probably too good to harm; the latter in too much trouble to assist. And to be rewarded for these uncertain efforts is no minor achievement — it is a tribute to human generosity.

But I do comfort myself in these efforts with one important thought of Aldous Huxley's. He allowed that there were only two satisfactory professions — medicine and astronomy. The doctor can without difficulty persuade himself that he is doing some good; the astronomer can be damned sure that he is doing no harm. The great Hippocratic precept, *primum non nocere*, is oddly enough easier to achieve in prisons and reformatories than in law schools. The present huge, overcrowded prisons, jails and reformatories of America (courtesy forbids that I should reflect upon Canadian correctional institutions, as does my ignorance) certainly do a great deal of harm to many of their inmates and to the society that supports them. In this unwitting Gulag Archipelago, we cannot protect the weak from the strong, the victims from the predators, the minorities from the majorities, whoever they may be. Most fortunately, life in the law schools of Canada and the United States of America is hardly that rigorous.

Apart from these contrasts, there are two other points of comparison that I wish to make between prisons and law schools as a foundation for some reformatory suggestions concerning law schools. Both themes flow from a restructuring of training programs in prisons and reformatories which seem to me to have some likely applicability to legal education.

The first hopefully useful comparison is this: the prisoner, and by this analogy the law student, must by-and-large be allowed to plan his own training program. Of course, the illiterate prisoner has to be taught to read and write, and those lacking numeracy be taught to count if they are to approach any more advanced vocational training program, in the same way that the basic Common Law subjects have to be imposed on the law student in his first few quarters or terms of legal studies; but after that it is very much better to allow the prisoners and law students to choose for themselves. The reasons are fairly obvious and require no extensive elaboration. Central to them is the determinative quality of the level of

motivation, the horse-to-water syndrome.

This theme has been accepted throughout the federal prison system in the United States and is rapidly gaining acceptance in other systems. We no longer pretend that we can observe the prisoner in a classification program, decide what training he needs, place him in vocational classes and reward him in the coinage of earlier release for their successful completion. It is not difficult, rather it verges on the impossible, to predict behavior in the community from behavior in prison; the pretense that we have this ability has deepened the pool of hypocrisy in our prisons and has tended to turn them into great schools of dramatic art. Predictable release dates, subject to good behavior (and this for purely administrative reasons), together with an adequacy of training programs available to the prisoner but not imposed on him, are taking the place of coerced programs and unpredictable parole release dates. The reformatory and the prison lower their levels of pretension to be coercive agents for change; their role is more realistically assessed as deterrent and punitive but with the possibly saving grace of a serious purpose to facilitate the inmate's self-regeneration to a more contributing and socially acceptable life if he is so inclined — it becomes facilitative of self-development not pretending to be effectively coercive to that end.

Now, I am not suggesting that law schools are deterrent and punitive (though occasionally I have my suspicions about this), but I am suggesting that the point of facilitating self-development rather than of trying in lock-step to impose personal change is compelling also in relation to legal education. The heart of the matter is that the task of legal education is to teach a culture, not a craft, just as the task of prison training is to teach lawful living, not a trade. Craftsmanship (like a trade) is important, please do not misunderstand me, but the point is that the craft of the law can be taught around a wide diversity of legal topics in a way that could not be taught if, for example, what one was trying to do was to train a carpenter or a plumber. There is, of course, no more noble vocation than that of carpenter, but it does not require the inculcation of a culture; by contrast, taking the intelligent and responsible citizen and helping him to turn himself into a lawyer is introducing him to the culture of the law. It is a process of cultural adaptation. He or she needs to know the history of the law and of the lawyers; the philosophy of the law, which is jurisprudence; the folkways, values and language of the law. The student must acquire some knowledge

of the processes of the law and of the role of law in society. He must learn how to interview and to advise clients, to negotiate, to litigate, to advise legislative committees, and to play a role in refashioning the law. There are many paths to this culture of the law, and it can be taught as well around the two other areas of Horace Read's particular concern — conflict of laws and legislation — as it can around torts or conflicts or bills and notes. Of course, criminal law and the criminal justice system is in my view the superbly appropriate topic for particular concentration, but I shall not inflict my idiosyncratic reasons for that view on you this afternoon.

It is not a squalid report on the hardening of my arteries and the declining flow of blood to my brain to confess that I cannot remember the details of criminal law cases from one year to the next. The broad sweep of the case law stays reasonably well with me, but the precise procedures and exact language that are essential subjects of a craftsman-like mastery of the topic move fairly swiftly from my memory and always have done so. Further, I find that those who cling to the contrary aspiration and report details of statutes, case law, and procedure with great confidence and apparent precision usually lapse into repeated error. I have ceased to mistake their confidence for accuracy; I check on them.

The argument is an old one, but that does not make it wrong. What it comes to is this: the student must learn a few basic legal principles, most of which can be encompassed in the first year of law school with its concentration on the great traditions of the Common Law. Thereafter the refinement or deepening of these concepts can be done around a wide choice of subject matters and a considerable diversity of learning situations, and, if I may now risk the contentious, can be as well done in whatever mixture of classroom discussions, seminars and clinical education the student finds congenial as in any prescribed program. Hence my plea here is one that has already been largely accepted, and that is for a wide freedom of choice after the early literacy of the Common Law has been encompassed. A corollary is that we must most vigorously resist the sort of pressures that have been exerted recently in the United States on the law schools from certain groups within the judiciary and the organized profession for prescribed subjects in law schools as a condition precedent to admission to the Bar or to admission to audience before particular courts. I hear similar pressures are felt and voices singing this same sad practical tune are also raised in Canada. Such suggestions mistake the culture of the

law for a craft. The range of details necessary for effective pursuance of all the crafts of the law cannot and should not be taught in law schools.

Let me turn to the other, somewhat uncertain, springboard for a comparison between correctional training and legal education: the avoidance of doing harm. How this is to be achieved in prisons and reformatories is a long, long story, which I would greatly enjoy talking to you about, but this is not the occasion. Well, you say, what possible harm do we do to the student in the law school? Let me put the matter curtly, recognizing that thus one courts overstatement. For most, not all, the harm we do is that we unduly delay their involvement in the realities of legal practice. The United States and Canada seem to me to have invented the longest adolescence that the world has ever seen. One ceases to be an adolescent when one gainfully supports oneself, not at a summer job as a counselor at a children's camp, but in the trade or profession one proposes as one of the two central anodynes of one's life — for Freud was in my view precisely correct when he suggested that the two functions that make human life bearable are working and loving. And those of us whose work is a profession in which we can take joy are surely blessed. So adulthood for us cannot begin until we enter on our real work.

Let me set aside those few students who will spend their law school summers working on the law review and ask what the optimum summer vacation experience is that we can arrange for the rest. When I had to face this question for my eldest son and my second son's wife, both of whom have the good fortune to be lawyers, I found that there was no doubt in my mind that working in a fine law firm was the best possible experience for them during their first and second summer vacations from law school. My colleagues seem to arrange this same program for those of their families and friends aspiring to be lawyers, and at the University of Chicago we certainly do our utmost to provide these opportunities for as many of our first and second year students as we can — and we largely succeed. So whatever we say, when personally concerned, we act the desirability of a relatively early involvement in the operating craft of the law. We are, in effect, developing a new synthesis between on the one hand, university-based legal studies, relating the law to its circumambient fields of knowledge and, one hopes, to social needs, teaching the history, philosophy and

sociology of the law, and on the other, training by apprenticeship in the processes of legal practice. It is a synthesis that has emerged from the pressures of the market-place and from the students' ambition to move more swiftly to efficient practice of the law in a context of the traditional and leisurely flow of the academic calendar.

For my own part, I see this as an excellent development. It has, of course, some disadvantages. First, this experience of relating university-based studies to legal practice is denied to some students and in that denial to some, while this opportunity is provided to others, I see us as involved in unfairness and thus in doing harm. Further, even for those who are given this conjoint or sequential opportunity it is a choppy experience when given in this way — nine months in law school, three in a law office (thrice repeated since the bar examinations contaminate the third summer). And this choppy experience does harm, too. Hence, my proposal: It would not be impracticable to re-organize the structure of legal education the better to facilitate the congruent and conjoint training both in the culture and the craft of the law.

Some would answer: that is precisely what the night law school tries to do; it takes those who work in law firms during the day and teaches them the basic concepts of the law in the evenings. But that is a sad denigration of my theme. Devoting only the butt end of the day to the great culture of the law, its philosophy, history and values, is an impossible burden for any but the most exceptional student to carry. We can do better than that.

Northeastern Law School in Boston is experimenting with a different mix towards this same end which merits close observation. The first year is much like the first year in other American law schools, but during the second two years students are required to work as full-time apprentices or legal assistants for at least four three month periods in a wide variety of practices and geographic areas, for example, with the public defender's office in Alaska, a poverty law office in Hawaii, as well as in similar professional opportunities that are found close to the Boston area. But this plan, too, has a staccato quality to it, an artificial compartmentalization of a legal education into the cultural and vocational, which seems to me undesirable. And so let me present my own plan to this end. This plan is nowhere in operation, so far as I know, but — and otherwise I would not burden you with it — I believe it would

greatly reduce the harm from the present gross deferment of getting about the business of life we now impose on most of our law students.

Before doing so, let me reflect just for a paragraph or two on how it is that we have come to impose these undue delays, because recognition of this history may facilitate breaking its binding chains.

The historical explanation in the United States is, I think, fairly simple. When we wrenched legal education out of the law offices and into the universities, we imposed the same timing on it as was applied to all other university studies other than medicine. The doctors have always been wise enough to take themselves sufficiently seriously to avoid that error. Whereas it may be appropriate, indeed essential, for the philosopher to escape his philosophic studies for the long vacation to pursue more mundane activities, that is certainly not true of the doctor and need not be true of the lawyer. But, of course, there was another trade union group who had vested interests in this leisurely patterning of legal education, and that was the group to which I belong — the law teachers. The long summer vacations are very pleasant indeed and, unlike the law students, we do not have to involve ourselves in efforts at summer placements in law offices to acquaint ourselves with the processes of practice — Martha's Vineyard and the quiet study for us.

We should break these chains binding us to the routine of the university. For other disciplines it may well be appropriate; for us, it is not. And so to my plan.

Let the first year stay as it is, with its heavy and wise reliance on the case method, its excitement and competitive vigor. It seems to me that the first year of law school, certainly in the law schools in which I have taught, is an enormously exciting experience for most law students, a period of the most rapid and effective cultural adaptation. The change in the student during the first six weeks of law school, in his maturity and patterns of thought and speech, seems to me astonishing, and indeed the whole first year quickens the mind and the spirit and should not be tampered with. It is somewhat of a lock-step, and I am by no means sure that those students who most succeed at it prove to be the wisest and best of our lawyers, but it is an educational artifact, the product of chance and tradition, which it will not be easy for us greatly to improve upon. But thereafter, things change. A summer placement, if the student is fortunate. Back to the Chinese menu of the second and

third years, with moot court and the legal aid clinic properly competing in many law schools with a wide range of optional courses to be taken at any time and in almost random sequence over the next two academic years. Again, if fortunate, a placement in law-related work in the second summer, and the student is ready to graduate from law school about 33 months after he arrived there, fit for the hard preparatory work of the bar examinations and then, oh at last then, an end of adolescence and the beginning of the maturity of work.

Why not this? And I fit my suggestion to the classroom requirements of current rules of the American Bar Association and of the Association of American Law Schools so that it shall not be thought that I wish by one iota to cut down on the theoretical and culturally significant courses we offer in the law schools in favour of a larger dose of the minutiae of legal practice.

Let us have only a brief, say, three-week vacation at the end of the first year and then return to, in effect, the existing second year program, with its largely unfettered choice of subjects to be studied. Then, after in effect eighteen months of work in the law school, the student would be ready for a quite different professional placement in the law which, in my view, would build on the great traditions of apprenticeship that created the Common Law in England of the late nineteenth century and would also keep all that is best in our North American university-based training in the law.

What I will call "the third year," but which is in effect a twelve month period added on to the earlier eighteen months of university-centered legal education, would require the student to be placed in a law firm, a public prosecutor's office, a public defender's office, the legal department of a bank, and so on, but certainly under the supervision of an established practitioner. His role would be that of the master to the apprentice, and indeed before I was admitted as a barrister in Australia, I was required to serve for a year in such articles of clerkship, from which I must say that by good fortune I gained greatly. Generally speaking, my peer group took the same view of articles of clerkship, though there were, of course, some who had rather miserable experiences. But even the miserable experiences can be minimized, and I think they should be. The mechanism of their minimization is that the law school must continue to take the closest interest in its "third year" students. How should that interest be expressed?

First, the articles of clerkship must make allowance for the

regular and necessary continuance of legal studies in the late afternoon or early evenings of several days of each week of the "third year." At this stage of close proximity to professional practice, this burden is not nearly as severe as it is for those who undertake legal studies part-time throughout their legal education.

Second, the law school must provide sufficient supervision of the professional experience of its third year students so that close liaison is maintained with the supervising lawyers. They must be brought into regular contact with groups of third year students, not only with their own apprentice or apprentices, to discuss the significance of the work the students are doing in their professional placements, generally to give them something of the supervised clinical experience that the medical student gets in the teaching hospitals.

The adjunct law teachers should be remunerated modestly, but the role will come to be seen both as a mark of distinction and as a task of professional service to be undertaken by those who aspire to senior positions in the profession. Again, the analogy with the doctor's appointment in the teaching hospital is both close and appropriate.

Handled this way, it should be possible to avoid the routine slavery that characterized some articles of clerkship in the earlier apprenticeship models of legal education and to enrich the students' practical experience by regular group discussion of its larger significance. I would see it as an essential element of this plan that faculty supervision of reasonable intensity is provided for every third year student in relation to that practicum — to be precise, say one faculty supervisor for every twenty third year students, and for calculation of teaching loads I would regard this supervision of twenty third year students as equivalent to teaching one course.

Let me stress that I see none of this as an alternative to present courses and seminars; rather, it is an addition, mobilizing the bar to expediting and, in my view, improving legal education. The extra costs are modest. The avoidance of our present leisurely waste of the students' time is important. I am, of course, not alone in recommending modification of the law school curriculum towards two years of academic study and a third year devoted to clinical and practical experience, though I believe the balance between the two I have suggested is original. At all events, Francis Allen in his recent excellent book, "Law, Intellect and Education", reflects on such proposals (p. 89) and suggests that they "surely deserve the closest attention". He adds (pp. 89-90):

One hopes that the bench and bar in weighing this or other thoroughgoing educational reforms will demand a careful experimental scrutiny of the proposal before moving to mandatory implementation. Educational nostrums, like chemical medications, require careful preliminary testing before they can be safely prescribed. Is it self-evident that placing a student in apprentice status for one-third of his training represents the optimum use of time for all persons entering the profession? What allocation of costs and functions between the profession and the schools is to be made? If, as seems likely, these programs will result in increased costs of law training, what are the implications for increased costs of legal services to the public and the accessibility of legal education for those of limited means? Assuming that the competence sought to be advanced by these proposals can be adequately defined and identified, will the educational program provide lasting or only temporary advantages for the students? Will a young lawyer three or five years in practice demonstrate significantly greater command over professional skills than those of similar experience in practice but more conventionally trained?

Allen is surely correct in this and, if I may, here lies one of the advantages of my proposal — its ease of testing on a few students in any law school willing to try it without being adopted as policy for all — and the few on whom it would be tested could be volunteers. All that is required is a summer term for those students at the beginning of their second year of legal studies who wish to join this program. For a law school like ours in Chicago, which does not offer a summer term, it would be necessary to provide classroom instruction during the summer in three or four subjects that are normally taken by most students sometime during their second or third years, so that, for them, there could be eighteen months of largely uninterrupted university-based full-time legal studies. This would not be a prohibitive addition to the budget and the only other additional load for the Faculty would be the faculty supervisor for these first twenty volunteers as they move into the twelve months of their practicum.

How would one evaluate such a scheme? Gradualism and tests are fine provided the criteria of success are defined. Certainly it would not be practicable to defer evaluation until the twenty guinea pigs were judges and leading practitioners telling war stories of their unusual pattern of legal education. I think customer satisfaction is the answer. Let the students and practitioners vote, in effect, with their feet, expanding the opportunity for this arrangement of legal

education if the better practitioners will undertake the supervisory role and if more students wish to pursue it. Otherwise restrict or abolish the program and forget the fifth Horace Read Memorial Lecture.

It may be thought that this plan for eighteen months of full-time university-based legal studies, followed by twelve months of part-time practice and part-time university-based legal studies is a concession to the craft over the culture, the victory of the routine over theory, of the practical over the jurisprudential. I reject that indictment. Nothing seems to be more important in the topic I address this afternoon than the "preservation and extension of an intellectually-based and humanistically-motivated legal education"; but it is my view that for all but a handful of students this could be more likely of achievement under the timetable I suggest than under our present structure of quarters or terms with interstitially brief bouts of practicum. Adherence to the university's leisurely timetable is not a condition precedent to university-based legal studies. Indeed, two and a third academic years of university-based studies uninterrupted by the three months of diverse summer activity may well provide a better setting for closer links with the like of the university as a whole than now obtains since it is not true that universities, unlike bears, aestivate. I find in the universities in which I have taught that in the summers there is a great deal of activity in other faculties departments to which I can relate.

The details of this plan go on and on. At one stage in my life I thought them through reasonably fully, since I was prepared to undertake the deanship of such a school if it could be created; but I failed in persuading the local bar of the particular city where we had hoped to launch the plan to lend support. And here lies the problem that may break the back of my plan.

I am by way of being stupidly over-optimistic, and it is my view that there is a great deal of goodwill in the practicing bar towards legal education. I continue to believe that if properly mobilized, one could gain the degree of support for this new type of apprenticeship related to legal education to gain the best of both the English nineteenth century and the North American twentieth century worlds of legal education. The lawyers support could be moved by benevolence and by self-interest, since out of the supervisory relationship there comes a superb opportunity to decide whether the student would be a suitable member of the firm, a find to be added to the stable or rather someone who might be allowed to go

elsewhere. It would be an excellent recruitment process properly used and a booming, prosperous, proud bar has within it an ample number of people generously inclined towards legal education.

Given some appropriate links to law school, they would undertake this type of supervision — or so I believe. On the other hand, it must be admitted that on the one occasion when I put a few weeks into trying to launch this scheme, I gained an adequacy of support promised by individuals but no agreement on the part of the organized bar that they would foster this development. The case was, however, a rather special one, and I do not think a failure in one brief essay to launch it in one city should spell the total rejection of the plan.

Briefly, what is to be said in its favour? I believe it would involve no decline whatsoever in conditioning to the culture of the law; I believe it would provide a substantial increment in the relationship between the culture and the practice of the law. If the “third year” partnership between the law school and the profession were reasonably well handled, one could expect great advantages for the student, for the law school and, if I may, also for the members of the bar who chose to join in this not unimportant educative activity. Students would have a sense of being involved in their profession after eighteen months of legal studies instead of after our present thirty-three months; that is no small advancement. And one final unfair piece of special pleading. They will rarely admit it in public but if you will press experienced law teachers at many of the leading American law schools, you will find that they will tell you that a minority of their second- and third-year students are already, in effect, doing what I suggest but without supervision and without rational planning. Quite a few of our second- and third-year students, how many I do not know, but I believe this to be true of most of the American law schools, are already involved in substantial work, if they are fortunate, in law firms throughout the academic year and also manage to fit their work in the law schools around the exigencies of practice, to the disadvantage of both. Far from seeing them as manipulators and schemers, vigorously to be discouraged from part-time studies, I see them as path-finders towards a more rational organization of legal education.

Teaching Fact Finding

Let me inflict on you one last reflection, flowing from my conjoint interest in legal education and in reform of the criminal

justice system. This theme has or has not a value entirely independent of the previous plan for the structure of legal education, which I risked putting before you.

Almost as important as the contribution of the case method to legal education has been the insight of the realist school of jurisprudence that the prediction of what courts will do and why, of how legal rules work out in practice, of how legal rules might be reformed better to serve social interests, should be a central focus of legal studies and professional concern. Few will doubt the value of this realist approach. But here is my difficulty with it. We always seem to assume that these facts of the operation of law and of legal rules are easy to acquire; that, in effect, the Brandeis brief is easy to draft. One might have to employ, on a temporary basis, a statistician or two, an odd sociologist, possibly even an anthropologist, a psychologist or psychiatrist; but the information they had to supply could quite quickly be acquired, and on it one could assess the social realities and the likely consequences of social reform. Nothing could be further from the truth. We have not yet begun to implement the ideas of the realists. It turns out that these facts of society are enormously difficult to acquire. In the United States we lack, for example, basic statistical data on the incidence of crime, and we are certainly totally without reliable guidance on the consequences of our social interventions. A country which has remarkably efficient census processes, given the size and complexity of the task, has ludicrously inefficient statistical and demographic data on crime, criminals, and on police, court, and correctional practices. Last week I spent on a consultancy to the U.K. Home Office Research Unit finding to my surprise that they too are plagued by the absence of offender based statistics capable of following the flow of cases through the interlocking police, prosecutorial, judicial and correctional discretions that make up the justice system, and, as a result, are equally at a loss as to the consequences of their interventions in this system. Generally speaking legal education gives the student very little insight indeed into the complexities of this type of fact-finding. As the lawyer takes on new roles and new obligations in an increasingly complex society, this lack becomes of serious concern. The Chief Justice of the United States phrased it well:

The day when lawyers and judges could confine themselves sedately to deeds, wills, trusts, and matters of commerce is gone.

They must increasingly devote their special skills and talents to the large problems of community and national concern.

One can hardly doubt the truth of this statement; and if the culture of the law must embrace these larger concerns, then it is of first importance that legal education include some training in the methods of social fact-finding and some understanding of the great complexity of social reform. So often our benevolent interventions do not achieve beneficence; so often there are unexpected consequences of social intervention. This is as true of the legislative as it is of the regulatory processes of the law. It is as true of case law as it is of negotiation and settlement in the law office. And I find a startling neglect of analysis of the difficulties of social fact-finding and of the processes of law reform, widely defined, in legal education. Nor is this gap too difficult to fill. Like other aspects of the legal culture, it can be done around almost any area of legal studies. The point is as valid of wills and estates as it is of contracts, of legislation, and of criminal law. But somewhere, somewhere, in every students' legal education there should be some consideration in depth of the methods by which social facts may be found relevant to legal concerns and against which the consequences of change in the law may be measured. The skills of the social scientist have too long been taken for granted as if they were readily on stream. The trouble is that the stream passes by unless the lawyer has at least sufficient knowledge to know how effectively to divert it to his use.

I talked earlier about the virtues of voluntarism. Let me now retract somewhat from that value. It does seem to me that the recent report of the American Bar Association on *Lawyer Competency: The Role of The Law Schools* is right when it recommends that (p. 8), "Even if it entails the loss of some teacher autonomy, the three-year program should build in a structural way: to present students with problems of successively broader scope and challenge, to enable students to teach themselves, and to utilize skills and knowledge earlier acquired." They make a case for, in effect, some "majors", some consecutive areas of focus over the years of the law course. And, at the very least as a voluntary option this seems to me to make very good sense. If so, one element of every such "major", of every topical study in increasing depth, should be the inclusion of the empirical question, "how do we know?", "how could we find out", and, "what would be the social consequences of this proposed change?"

To conclude this egocentric series of reflections on legal education, let me hark back to my first year of law teaching. As I said, I started as a temporary acting probationary assistant lecturer at the London School of Economics, with relatively secure tenure of nine months. My immediately supervising teachers, or so it seemed to me, were Glanville Williams and Sir David Hughes-Parry, of whom I stood in joint and several awe. It was clear that they provided too fast a pace for the sort of competition I could offer, and it was necessary for me to go elsewhere. I had studied law, with a break for the War, in Melbourne, Australia; the law school at that university, for reasons of sentiment and a gap in available law teachers that the war had created, was prepared to offer me a teaching position.

There then came an invitation to move to a Canadian law school, not this one. After some uncertainties, the pull of family and home dominated; but I have often wondered what pattern my life would have followed had I come to this country, as my father did before me, emigrating first to this country before by chance moving on to Australia. These past few days with you have increased my uncertainty in the wisdom of my choice. I have found this a superbly interesting law school, with a creative faculty and a vigorous and thoughtful student body. It has been a great pleasure for my wife and myself to be with you, and it has been a privilege to offer these inadequate reflections as this year's Horace Read Memorial Lecture.